

SECRET

MEMORANDUM FOR ADDRESSEES

SUBJECT: Preparation of Material for Senate Floor Arguments
Against New Section 515 of Foreign Assistance Act

It is recommended that we concentrate and cover the five topics listed below. Material relating to these topics which you might wish to draw upon is attached.

1. Importance of Laos to U. S. Interests

Tab A (General talking paper against new section 515)

Tab B (USG position on foreign forces in Laos dated
9 August 1971 and Godley and Alexis Johnson state-
ments)

2. Importance of Thai Irregulars Specifically

Tab C (Talking paper)

3. Refutation of Moose/Lowenstein report concerning Thai Irregulars

Tab D (Excerpts of report contained in SFRC report on legislation)

Tab E (Some background and refutations)

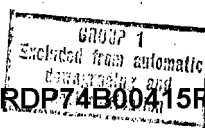
4. Committee Jurisdictional Argument Based on Defeat of
Proposal to Transfer Military Assistance to Laos from
MASF to MAP

Tab F (Proposed statement)

5. Tying Hands of President, Constitutional Arguments and Security
Risks Inherent in Requiring That Details Of Proposed Military
Operations Be Submitted to the Congress for Approval

See Tab A

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S. 3390

Section 4: New Section 515 of the
Foreign Assistance Act of 1961, as amended

"Limitations on Availability of Funds for Military Operations"
(page 7, line 17)

New Section 515

New Section 515 would prohibit the use of funds "under any provision of law" for the purpose of financing any military operations by foreign forces in Laos, North Vietnam, or Thailand unless Congress has specifically authorized or specifically authorizes the use of funds for such purpose and designates the area where military operations financed by such funds may be undertaken.

Executive Branch Position

The Executive Branch strongly opposes the inclusion of section 515 in a foreign assistance act. This section is inconsistent with section 501(a)(1) of S. 3108 and H. R. 12604, the military procurement authorization bills, which are pending in the Armed Services Committees, and the understandings covering that section. Section 515, as worded, would affect on-going arrangements for U. S. assistance to Laos which also involve regional cooperation and self-help and would have grave impact on our goals in Laos. These goals are and have been to aid in the orderly withdrawal of U. S. forces from South Vietnam and to preserve the precarious but important balance which exists in Laos.

Further, the provision of subsection (b) of section 515 would impose impractical and undesirable requirements on executive actions without due regard for the President's responsibility in this field.

Aside from raising constitutional questions that may impair the President's authority to conduct negotiations with the affected countries, section 515 might severely restrict the ability of the recipients to react quickly in emergency situations. For example, it could prevent the victim of aggression from engaging in hot pursuit of an enemy after his territory is invaded.

Yet according to section 502 of the Foreign Assistance Act of 1961, as amended, a recipient nation may use military training and equipment provided by us for its legitimate self-defense. In short, section 515 would require that the affected recipients of foreign security assistance allow the United States Congress to determine in advance what steps they can take in defending themselves from aggression.

There is no question that the evolving cooperative relationships among the free nations of Southeast Asia are consistent with the Charter of the United Nations. There is also no question that these cooperative arrangements are crucial to the success of the Vietnamization program and to the whole thrust of the Nixon Doctrine. For the Nixon Doctrine in Southeast Asia means that as friendly nations assume more of the direct burden of the conflict the United States will increase its material assistance so as to help them help each other in defending themselves against a common enemy.

U. S. support for these cooperative efforts is essential if they are to be successful.

Finally, subsection (b) of section 515 might create serious security problems by requiring the Executive Branch to disclose to the Congress in advance detailed plans for proposed military operations to be undertaken by friendly foreign governments.

Recommendations

- A. Strike new section 515 en toto;
- B. Failing that, strike the word "Laos" which appears on line 22 of page 7 of S. 3390, or
- C. If section 4(3) of S. 3390 (transferring from MSAF to MAP military assistance for Laos and South Vietnam) is struck en toto, then substitute "under the provisions of this Act" for the phrase "under any provision of law" on line 19 of page 7 of S. 3390.

Previous Congressional Action

A. A provision identical to new section 515 was included in the Senate version of the Foreign Assistance Act of 1971 (S. 2819). During floor discussion, Senator Stennis obtained the removal of South Vietnam, Cambodia and Burma from the provision and argued for the removal of Laos. Senator Stennis made it clear that the only reason he was not fighting harder for the removal of Laos in the Senate was to avoid a secret session, implying that Laos should and would be removed in conference.

B. The conference committee deleted the entire section from the Foreign Assistance Act of 1971.

TAB

17 “*SEC. 515. LIMITATIONS ON AVAILABILITY OF FUNDS*
18 *FOR MILITARY OPERATIONS.—(a) No funds authorized or*
19 *appropriated under any provision of law shall be made*
20 *available by any means by any officer, employee, or agency*
21 *of the United States Government for the purpose of financing*
22 *any military operations by foreign forces in Laos, North*
23 *Vietnam, or Thailand outside the borders of the country of the*
24 *government or person receiving such funds unless Congress*
25 *has specifically authorized or specifically authorizes the mak-*
1 *ing of funds available for such purpose and designates the*
2 *area where military operations financed by such funds may*
3 *be undertaken outside such borders.*

4 “(b) Upon requesting Congress to make any such au-
5 thorization, the President shall provide to Congress a copy of
6 any agreement proposed to be entered into with any such gov-
7 ernment or person and the complete details of the proposed
8 military operation. Upon such authorization by Congress, the
9 President shall provide a copy of any such agreement and
10 thereafter of all plans and details of such operation.”

TAB

The result was announced—yeas 28, nays 52, as follows:

[No. 242 Leg.]

YEAS—28

Allen	Cook	Jordan, N.C.
Allott	Dole	Jordan, Idaho
Baker	Dominick	McClellan
Bennett	Eastland	Smith
Bible	Ervin	Stennis
Brock	Fannin	Stevens
Buckley	Fong	Talmadge
Byrd, Va.	Gurney	Young
Byrd, W. Va.	Hansen	
Cannon	Hollings	

NAYS—52

Alken	Hatfield	Percy
Anderson	Humphreys	Proxmire
Bayh	Javits	Randolph
Beall	Kennedy	Ribicoff
Bellmon	Long	Roth
Bentsen	Magnuson	Saxbe
Boggs	Mansfield	Schweiker
Brooke	Mathias	Scott
Burdick	McIntyre	Sparkman
Casse	Metcalfe	Spong
Chiles	Mondale	Stafford
Church	Montoya	Stevenson
Cooper	Moss	Symington
Cranston	Nelson	Taft
Fulbright	Packwood	Wicker
Griffin	Pastore	Williams
Harris	Pearson	
Hart	Pell	

NOT VOTING—20

Cotton	Hartke	Miller
Curtis	Hruska	Mundt
Eagleton	Hughes	Muskie
Ellender	Inouye	Thurmond
Gambrell	Jackson	Tower
Goldwater	McGee	Tunney
Gravel	McGovern	

So Mr. DOMINICK's amendment was rejected.

Mr. FULBRIGHT. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I send to the desk an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 32, line 11, strike out "\$565,000,000" and insert in lieu thereof "\$452,000,000".

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CASE. Mr. President, will the Senator yield?

Mr. CHURCH. Mr. President, in order to accommodate three Senators, the Senator from New Jersey (Mr. CASE), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Mississippi (Mr. STENNIS), I have agreed to yield briefly, with the consent of the Senate, provided I do not lose my right to the floor.

[Disturbance in the galleries.]

The PRESIDING OFFICER. The Galleries will be in order. The Sergeant at Arms will see that order in the galleries is restored.

The Chair recognizes the Senator from New Jersey.

Mr. FULBRIGHT. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Jersey may proceed.

Mr. CASE. Mr. President, I call up my

amendment affecting page 34 of the bill, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered. And, without objection, even though the amendment of the Senator from Idaho is the pending business, the Senate will proceed to consider the amendment of the Senator from New Jersey.

Mr. CASE's amendment is as follows:

On page 34, lines 13 and 14, strike out "South Vietnam, North Vietnam, Thailand, Cambodia, or Burma" and insert in lieu thereof "North Vietnam, or Thailand".

Mr. CASE. I thank the Senator from Idaho for his consideration, and, pursuant to my assurance, I shall delay him only slightly, I am sure there will be no difficulty about this amendment.

Mr. President, on page 34 of the bill, the committee added a provision to the effect that no funds authorized or appropriated under any provision of law should be made available by means of any officer, employee, or agency of the United States to finance military operations by foreign forces in six countries—Laos, South Vietnam, North Vietnam, Thailand, Cambodia, or Burma—unless Congress specifically authorizes the use of such funds for that purpose, and designates the area where they will be used.

I have received from the chairman of the Armed Services Committee an expression of concern about the breadth of this amendment, and after discussions with him, we have arrived at the understanding that—

Mr. STENNIS. Mr. President, will the Chair maintain order? I think this is an important matter, and the Senator ought to be heard, in view of a possible agreement on the floor.

The PRESIDING OFFICER. The Senator will be in order. The Senator will suspend his remarks until order has been restored.

The Senator may proceed.

Mr. CASE. Mr. President, the chairman of the Armed Services Committee, the distinguished Senator from Mississippi (Mr. STENNIS) and I have discussed this matter. His concern about the number of countries affected by the amendment as reported by our committee was one that I recognized with respect. Pursuant to an understanding that we have arrived at, I now offer this amendment to eliminate from the effect of the bill three of the six countries, leaving in Laos, North Vietnam, and Thailand. That is the whole amendment.

The Senator from Mississippi has been gracious enough to say that while he wants to consider this matter further at a later stage in the legislation, for the purposes of the consideration of the bill in the Senate at this time, such an amendment is satisfactory.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. CASE. I am happy to yield.

Mr. STENNIS. Mr. President, as I have understood, now, the Senator proposes that in section 513 on page 34 of the bill, the words "South Vietnam, Cambodia, and Burma" be stricken out of lines 13 and 14, as they appear.

Mr. CASE. That is right.

"Mr. STENNIS. That would leave, of course, then, the words "Laos, North Vietnam, and Thailand," as they appear now in the bill.

Mr. President, the Senator from New Jersey has correctly stated the understanding that we have had about this legislation, and we have agreed, for the purpose of this legislative step, that this modification of section 513 will put the section where it may stay in the bill in that form, and we can move forward with the bill without any further amendment being filed or brought up by the Senator from Mississippi.

I do make the point, as the Senator has implied, that this is done without prejudice to a full consideration of the matter in conference, based on the facts as they may exist at that time.

Is that the Senator's understanding?

Mr. CASE. The Senator has stated correctly what his position is, and the basis on which his agreement not to oppose this amendment or to offer another amendment to this section is based.

Mr. STENNIS. I thank the Senator, and I wish to make this further explanation: I think leaving the word "Laos" in here—

Mr. CASE. That is another section.

Mr. STENNIS. I beg the Senator's pardon.

Mr. CASE. I thought the Senator was talking about another section.

Mr. STENNIS. No, I am talking about the same section. I think that leaving the word "Laos" in the bill as now written is perhaps a contradiction of a provision on the same subject in the military procurement bill we passed 2½ weeks ago. However, I think that to get all the real facts on this matter before the Senate now would require a closed session. There is hardly time for that now, and I do not think there is any mood for it, either. So, as an original proposition, and without prejudice, we agreed to let this matter go as has already been outlined, and then in conference there will be a chance to really consider and discuss any facts that might be relevant; and I would rest on the decision that is made by the conferees.

Under those circumstances, I hope that the modification will be acceptable to the Senate. I have talked with some Senators about supporting my position in this matter, and I now withdraw the request because I believe this meets the situation.

Mr. CASE. Mr. President, I yield to the chairman, if he wishes to make comment.

Mr. FULBRIGHT. I am in full agreement with that.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, will the Senator yield me 1 minute?

Mr. FULBRIGHT. I yield.

Mr. STENNIS. I want the record to show that I consider this an important matter and that I am free to follow it

up, as is the Senator from New Jersey, of course, or anyone else—the chairman of the committee or anyone else—and get the facts together and get it before the conference.

Mr. CASE. The situation is that the matter will be in conference, because the House bill does not contain any provision on this subject.

Mr. FULBRIGHT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho, by unanimous consent, yielded to three Senators in order, the first of those Senators being the Senator from New Jersey.

Mr. FULBRIGHT. Mr. President, under the agreement, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 34, line 4, strike out the words "Laos, or South Vietnam."

The PRESIDING OFFICER. Without objection, the amendment will be in order.

Who yields time?

Mr. FULBRIGHT. I yield myself 2 minutes.

Mr. President, this is exactly the same circumstance as the previous one, by agreement with the Senator from Mississippi. We have discussed this matter. This involves the return to the Committee on Foreign Relations of jurisdiction over military assistance to Laos, South Vietnam and Thailand.

We have agreed to strike out South Vietnam and Laos but to retain Thailand. The Senator from Mississippi does not disagree, I may say, with the return ultimately of the jurisdiction over Laos and South Vietnam, but he thinks it is premature to put it in this bill at this time. Therefore, by mutual agreement, I have agreed to this modification.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, the Senator from Arkansas has correctly stated the matter. Thailand is left in the bill; and military assistance hereafter, if this becomes law, will be handled by the Committee on Foreign Relations. I am willing that, in the future, jurisdiction with respect to Southeast Asia be returned to the Committee on Foreign Relations. I think that while we are there and our men are there and the activities are going on, we ought to keep it where it is, because they have to be considered together. I appreciate the Senator's position.

With that, I am satisfied with the section as modified.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. I yield back the remainder of my time.

The PRESIDING OFFICER. Who is

acting for the minority leader? Does the minority leader yield back the remainder of his time on this amendment?

Mr. GRIFFIN. I yield back the remainder of the time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. FULBRIGHT. Mr. President, I have a technical amendment that does not affect the bill at all, except to clear up a typographical error.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 20, line 18, after "1969," insert the following: "\$350,000,000 for the fiscal year 1970, and".

The PRESIDING OFFICER. Without objection, the amendment is in order. Who yields time?

Mr. FULBRIGHT. I yield myself 1 minute.

Mr. President, this has no effect upon the bill at all. It is a mistake, a typographical error, on the part of the staff in preparing the bill. They did not make many errors, but this is a hard bill to keep straight. This amendment has no effect on anything substantive in the bill. I yield back the remainder of my time.

Mr. GRIFFIN. I yield back the time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

AMENDMENT NO. 546

Mr. STENNIS. Mr. President, I send to the desk an amendment on which we have agreed. I do not think it will take more than a minute or minute and a half.

Mr. CHURCH. Mr. President, I have no objection, on the basis of the same qualification.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 57, line 7, after the word "responsibilities" insert the following words: "within the jurisdiction of these committees", and on line 11, after the word "information" insert the following words: "within the jurisdiction of these committees".

The PRESIDING OFFICER. Without objection, the amendment is in order. Who yields time?

Mr. STENNIS. I yield myself 1 minute.

Mr. President, this is another amendment on which we worked out an agreement with the Senator from Arkansas. It relates to reports being made by the Department of State to the Committee on Foreign Relations, and we are in favor of that. The language was so broad, however, that we thought it would include some items over which the Committee on Armed Services has primary jurisdiction. These words merely correct and clarify that point, and I hope the amendment will be adopted.

Mr. FULBRIGHT. Mr. President, I exactly what we agreed. There was no

intention of the committee to usurp any jurisdiction of the Armed Services Committee. This amendment clarifies the intention of the committee.

I yield back the remainder of my time. Mr. STENNIS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment was agreed to.

The PRESIDING OFFICER. In accordance with the previous order, the Chair recognizes the Senator from Utah (Mr. Moss).

ESTABLISHMENT OF ARCHES NATIONAL PARK, UTAH

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 30.

The PRESIDING OFFICER (Mr. ALLEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 30) to establish the Arches National Park in the State of Utah, which was to strike out all after the enacting clause, and insert:

That (a) subject to valid existing rights, the lands, waters, and interests therein within the boundary generally depicted on the map entitled "Boundary Map, Proposed Arches National Park, Utah," numbered RPSSC-133-20, 001E and dated September 1969, are hereby established as the Arches National Park, hereinafter referred to as the "park". Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) The Arches National Monument is hereby abolished, and any funds available for purposes of the monument shall be available for purposes of the park. Federal lands, waters, and interests therein excluded from the monument by this Act shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") in accordance with the laws applicable to the public lands of the United States.

Sec. 2. The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange or otherwise, the lands and interests in lands described in the first section of this Act, except that lands or interests therein owned by the State of Utah, or any political subdivision thereof, may be acquired only with the approval of such State or political subdivision.

Sec. 3. Where any Federal lands included within the park are legally occupied or utilized on the date of approval of this Act for grazing purposes, pursuant to a lease, permit, or license for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, the Secretary of the Interior shall permit the persons holding such grazing privileges or their heirs to continue in the exercise thereof during the term of the lease, permit, or license, and one period of renewal thereafter.

Sec. 4. Nothing in this Act shall be construed as affecting in any way any rights of owners and operators of cattle and sheep herds, existing on the date immediately prior to the enactment of this Act, to trail their herds on traditional courses used by them prior to such date of enactment, and to water such herds, including the fact that the lands involving such trails and watering

TAB

AMENDMENT

Intended to be proposed by Mr. _____ to S. 3390, a bill to
amend the Foreign Assistance Act of 1961, and for other
purposes, viz:

- 1 On page 7, line 15, strike out all of SEC. 4 (5).

AMENDMENT

Intended to be proposed by Mr. _____ to S. 3390, a bill to
amend the Foreign Assistance Act of 1961, and for other
purposes, viz:

1. On page 7, line 22, strike "Laos".

AMENDMENT

Intended to be proposed by Mr. _____ to S. 3390, a bill to
amend the Foreign Assistance Act of 1961, and for other
purposes, viz:

1. On page 7, lines 18 and 19, strike out "or appropriated under
any provision of law" and substitute "under the provisions of
this Act."

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1. Senate Armed Services Committee Hearing, 22 July 1971.

Ambassador Godley stated "..... Also there are two enemy divisions at least tied down in the north, many trucks, anti-aircraft guns, and if there was no war in northern Laos those enemy assets could be used either in South Vietnam or Cambodia."

2. Senate Armed Services Committee Hearing, 22 July 1971.

Under Secretary of State Alexis Johnson stated " ... Similarly the small number of Thai nationals who have volunteered to serve as irregular forces under the command of the Lao government receive our support as do other forces in Laos. The absence of such support would undoubtedly lead to a military and political collapse in Laos. Such a collapse would not only release North Vietnamese divisions now fighting in North Laos, but would also release the larger part of the North Vietnamese security forces guarding the western approaches to the Ho Chi Minh Trail. Thus, the effects on the program of Vietnamization could be very significant..."

DEPARTMENT OF STATE



AUGUST 9, 1971

NO. 171

STATEMENT OF UNITED STATES GOVERNMENT POSITION ON FOREIGN FORCES IN LAOS

The US Government continues to support the 1962 Geneva Agreements on Laos and believes that their full implementation would lead to not only the solution of the Lao problem but also to a general reduction in the level of violence on the entire peninsula. Since it is generally held that these Agreements are now being violated, the President of the United States in 1970 wrote to the Heads of Government of all the signatories urging them to support the efforts of the Lao Prime Minister, Prince Souvanna Phouma, to promote consultations among the signatories as is provided for in Article IV of the Declaration on the Neutrality of Laos in cases of violation of the Agreements. The response was disappointing: some governments did not even respond to this appeal. Subsequently in his October 7, 1970, peace proposal, the President urged an Indo-China conference which would address the problems of the conflict in Laos and Cambodia as well as in Viet-Nam. To date North Viet-Nam has refused to join us in this effort to bring peace to that troubled peninsula.

The root cause of the current problems in Indo-China is the presence beyond the borders of North Viet-Nam of some 250,000 North Vietnamese troops. In the case of Laos, while the United States withdrew its entire military advisory group of 666 men following the signing of the Geneva Agreements in 1962, the North Vietnamese withdrew only 40 personnel through the ICC check points. Although some of the 10,000 North Vietnamese military then in Laos were apparently withdrawn, many stayed. Over the years the number has grown, and some 80,000 North Vietnamese forces are not only directed against the neutral government of Laos, but also use the territory of Laos, the Ho Chi Minh Trail, to intervene in the internal affairs of a neighboring state, the Republic of Viet-Nam. Such use of Lao territory is in itself also a violation of the 1962 Geneva Agreements. It was in response to this continuing threat that the Republic of Viet-Nam mounted an operation in Laos and northern South Viet-Nam in March and April of 1971 to disrupt the North Vietnamese use of the Trail. The Royal Lao Government, while expressing regret for the South Vietnamese action, noted that "... primary responsibility for this development rests on the Democratic Republic of Viet-Nam which has violated international law and the 1962 Geneva Agreements. The Democratic Republic of Viet-Nam has violated and is continuing to violate the neutrality and territorial integrity of the Kingdom of Laos."

More recently there has been controversy over reports of what have been called "Thai troops" in Laos. Both the Lao and Thai Governments have denied that there are Thai Government troops in Laos. The Thai

Government

-2-

Government has stated that there are volunteers of Thai nationality in irregular forces in Laos. These volunteers, many of them from areas bordering on Laos and ethnically indistinguishable from the Lao, have enrolled in the Lao military services in response to appeals from the Royal Lao Government. These volunteers and the military organizations to which they belong are part of the RLG armed forces and are under the command of the Royal Lao Government, through the Lao Military Region commanders.

On June 7 the Department of State spokesman acknowledged that the U. S. Government provided support to these volunteers and to others forces, regular and irregular, in Laos.

The Royal Thai Government has acknowledged that it has provided training for Lao forces, regular and irregular, on Thai soil, acting in response to a request from the Royal Lao Government. The Thai Government's willingness to provide this kind of assistance stems from the extreme importance of Laos to Thai security.

The Royal Lao Government is sensitive to implications with respect to the Geneva Agreements created by the presence of volunteers of Thai nationality in Laos. However, in the face of the massive North Vietnamese invasion, the RLG felt constrained to seek reinforcements for the severely depleted Lao forces. It considers that it is fully justified in seeking such assistance. The DRV's violations constitute a material breach of the Agreements which entitle--and indeed impel--the RLG to take necessary measures to defend itself. Likewise the USG, itself a signatory of these Agreements, is entitled to withhold complete compliance in light of this failure by the DRV to honor its obligations, and it is justified in responding to requests for assistance from the RLG. The Lao Prime Minister, Prince Souvanna Phouma, has made it clear on many occasions that he is prepared to return to full implementation of the Geneva Agreements whenever the DRV is prepared to do likewise, beginning by the withdrawal of all its military forces from Laos. The USG fully supports this position of the Lao Prime Minister.

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MEMORANDUM

SUBJECT: Effects of Section 515 of the Foreign Assistance Legislation
as Proposed by the Senate Foreign Relations Committee

1. As presently constituted, Section 515 will require specific congressional authorization before funds from any U.S. Government agency could be used to finance any military operations by foreign forces in Laos, North Vietnam or Thailand outside the bounds of the country of the government or person receiving such funds.

2. Should specific authorization not be obtained--or even should issuance of such authorization be delayed in any budget-cycle year--this would mean that Thai irregulars could not be used in Laos. This would have an immediate impact on Laos, as an independent state, to serve as a buffer between Thailand and the North Vietnamese. Since 1970 Laos has on the assistance given to Lao and tribal forces by had to rely/ Thai irregulars to prevent the North Vietnamese from conquering Laos by military force, i. e., from achieving a position of military predominance sufficient to permit Hanoi to force the Royal Lao government to resign, capitulate or accede to Hanoi's dictates. The focal point of Laotian defense against North Vietnamese pressure--a defense made possible by Thai irregulars--has been the defense line in the mountainous area just north of the Laos capital of Vientiane. During the past two years

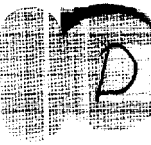
the Thai irregulars have provided the majority and the best of the defensive forces available to resist North Vietnamese attacks in north Laos.

3. Without this continued support by Thai irregulars, it is almost certain that the Laos will not be able to prevent virtual North Vietnamese control of their government and the remainder of their country. The result would be the free use of all of south Laos by the North Vietnamese to move men and supplies into South Vietnam and Cambodia. It would also place the North Vietnamese armies on the Thai border, greatly facilitating support to the Communist insurgents in Thailand. It would place the Thai government in direct confrontation with North Vietnamese military forces and undoubtedly result in the Thais calling upon the United States to come to their assistance under existing defense commitments by the United States.

4. Clearly this is a situation to be avoided if possible. The continued employment of Thai irregulars is important in maintaining Laos as a buffer between Thailand and North Vietnam at minimum expense to the United States and without United States involvement. The use of Thai irregulars also avoids direct confrontation between North Vietnamese and Regular Thai Army forces. The present method of U.S. support to Thai irregulars in Laos should continue in order to ensure the continued availability of Thai irregulars for immediate commitment to meet North Vietnamese attacks in Laos where and as they occur.

Finally, the presence of the Thai irregular volunteers in northern Laos plays a vital role in tying down the equivalent of a North Vietnamese main force division. These North Vietnamese troops would otherwise be available for operations against South Vietnam, with resulting effect on the rate of withdrawal of U.S. personnel.

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Subsection (4)—Partial Payment in Foreign Currency for Military Assistance

Subsection (4) increases from 10% to 25% the partial payment in foreign currency that must be made by certain recipients of military aid in order to help offset the cost of official United States expenses within the country and the costs of educational and cultural exchanges with that country.

Section 514 of the Foreign Assistance Act, initiated in the Committee last year, requires a foreign country which received military grant aid or excess defense articles to pay, in its own currency, 10% of the amount of the grant aid or, in the case of excess articles, an amount equal to 10% of the fair market value. The foreign currency obtained in payment is available to meet U.S. obligations in the country and to finance educational and cultural exchange programs. It does not apply to a country where military aid is given in payment for base rights. And, if the President decides, the payment requirement can be waived if, without it, the United States does not need to make dollar purchases of the local currency for financing U.S. operations in that country. In practical effect, the payment requirement is not applied unless it actually results in dollar savings.

There is no valid reason why recipient of military aid should not be required to pay at least one-fourth the value of the materials we give them, especially if we have to buy their currency with dollars to pay for the cost of U.S. operations in the country. This will help to implement the Nixon Doctrine principle of requiring other nations to shoulder a greater share of the burden for their own defense needs. Having additional foreign currencies available will also lessen the drain on our dollar resources and have a favorable impact on our escalating balance-of-payments deficit.

As of May 18, 1972, agreements for local currency payments had been signed, or agreed to in principle, with 26 countries. On the basis of the 10% requirement in existing law the Department of State estimates that for the five months covered in FY 1972 there will be collections, and, thus, savings to the taxpayers, of \$6.6 million. The Department estimated that \$11.8 million would be collected in FY 1973 at the 10% rate. The Committee's action to increase payment to 25% effective July 1, 1972, will increase that amount substantially.

Subsection (5)—Limitation on Availability of Funds for Military Operations

Subsection (5), sponsored by Senator Case, adds a new section 515 to the Foreign Assistance Act which would require specific Congressional authorization before funds from any U.S. Government agency or official could be made available "for the purpose of financing any military operations by foreign forces in Laos, North Vietnam, or Thailand, outside the borders of the country of the government or person receiving such funds. . ." In addition, the amendment would require the President to make available to the Congress copies of any agreements and other information bearing on such military operations. The amendment is not intended, however, to infringe or restrict military operations and exercises outside Southeast Asia which are required for self-defense purposes or which are pursuant to regional defense arrangements, such as NATO, or other arrangements, such as U.N. peacekeeping operations.

This amendment is an outgrowth of the "crazy quilt" financing arrangements that have emerged from U.S. involvement in Indochina and the conduct of cross-border military operations in that part of the world. It is the same as a provision approved by the Senate in last year's foreign aid bill, a provision which was deleted in conference. The Committee still believes that this problem should be corrected and the door closed to possible repeat in the future of the type of questionable activity that has occurred with the financing of Thai forces in Laos.

Staff members of the Subcommittee on U.S. Security Agreements and Commitments Abroad were in Laos and Thailand earlier this year. Following are the sections of their report, severely censored by the State Department, describing their findings concerning the Thai irregulars in Laos, financed by the United States:

B. THE THAI IRREGULARS

The program of Thai irregulars in Laos (known as the SGU program for Special Guerrilla Units) provides for U.S. support of up to [deleted] battalions this fiscal year. That remains the goal, but because of difficulties in recruitment in this fiscal year only [deleted] battalions at the most will be raised. Each battalion is supposed to have a strength of 550 men, but the infantry battalions, when deployed, are running at about [deleted] each and the artillery battalions at about [deleted].

"At the time of our visit, there were [deleted] Thai irregular infantry battalions in Laos and [deleted] on leave in Thailand. Of the [deleted] in Laos, [deleted] were in [deleted], [deleted] in the [deleted] and [deleted] at [deleted]. There were also [deleted] artillery battalions deployed. The total force level of Thai irregulars present for duty in Laos was [deleted]. A total of [deleted] other Thai were either on leave, AWOL, wounded, missing in action or on temporary duty. When we were in Laos there were [deleted] additional Thai irregulars in training in Thailand.

The Thai Government continues to treat the program as a sensitive subject, insisting that the numbers involved be kept secret. The United States cites the Thai attitude as the reason it, too, refuses to permit disclosure of the details of the program. The Royal Lao Government, however, has a different approach. In a Voice of America interview with Prime Minister Souvanna Phouma on January 14, the following exchange took place:

The reporter: "Mr. Prime Minister, we know that there are roughly 6,000 Thai troops in direct support of the Meos, mainly artillery. Have you asked for more Thai troops to come in and support these people?"

Souvanna Phouma: "They are volunteers, not regular troops."

The reporter: "I understand that sir . . . we understand that an estimated 6,000 additional Thai are preparing to come to Laos."

Souvanna Phouma: "We have fixed a limit of 25 or 26 battalions of volunteers. Actually, I think we have only 15 or 16 battalions. Therefore, it is necessary to add more . . . that is to say in concurrence with the Americans we have planned for 25 to 26 battalions . . . up to the present time we have only been able to form 15 or 16 battalions. It's the complement to this group that will be coming."

The reporter: "Can you tell me how many volunteer Thai troops you expect to be operating in Laos by May 1?"

Souvanna Phouma: "In addition to the 16 battalions, we will have about 5 or 6 more . . . they can't be called Thai battalions. We must call them volunteer battalions."

The irregulars are recruited by the Royal Thai Army from all over Thailand. The Army is also supposed to recruit cadre of officers and noncommissioned officers on a volunteer basis. Each Thai irregular infantry battalion is supposed to have [deleted] cadre from the regular Thai Army, [deleted] officers and [deleted] noncommissioned officers, and each artillery battalion is supposed to have [deleted] cadre from the regular army.

When we visited one of the Thai irregular training camps with the Thai Army General from the Thai [deleted] Headquarters at Udorn, we interviewed two Thai irregulars through an interpreter. One was a private, and he told us that he had volunteered because [deleted]. The other was a non-commissioned officer. He told us that [deleted]. At the camp, we asked whether the officer and NCO cadre in the program were volunteers. We were told that [deleted], that they served for a year, that they were then rotated out of the program and [deleted], and that no special effort was made to recruit ethnic Lao as distinct from other Thai.

We were told subsequently in Bangkok that [deleted].

U.S. officials who work with the program are well aware of the importance of the distinction between volunteers and nonvolunteers [deleted] because of the legislative prohibition against U.S. support of third-country forces in Laos. They thus emphasize that the Thai personnel including cadre from the regular Army serve in Laos under the overall command and control of the Royal Lao Government. They also contend that the regular Army cadre resign from the Army when they join the program, although [deleted].

The Thai irregulars are paid in Thai baht. The payment is made by the CIA in Udorn to officers of the Thai liaison unit on the basis of strength figures submitted by Thai S-4's at battalion level. In the case of the trainees in Thailand, the money is paid to them at the camp by the Thai liaison unit. After the trainees depart for Laos, there is a system whereby the Thai liaison office can send allotment checks to the families of soldiers or to personal accounts.

Thai irregular privates are paid 1500 Baht a month (\$75) while regular Thai Army privates are paid 530 Baht (\$26) a month. Lieutenants in the program are paid 2500 Baht (\$125). In addition, irregulars receive a bonus of 2400

Baht (\$120) at the end of their tours. If they reenlist, they are paid a bonus of 1200 Baht (\$60) and are given 200 Baht (\$10) a month in additional pay during their second tours. The cost of a battalion per year is estimated by CIA officials in Washington at about \$4 million. Thus, based on Souvanna's estimate of 25 battalions, the cost of maintaining the present Thai irregular force for a year will be approximately \$100 million.

Like the Thai General, all Thai officers in irregular units are given Lao names and Lao identity cards during their service in Laos. They go to Laos in separate Thai units—not individually—and serve in these units as long as they remain in Laos. Because the enlisted men in the units are volunteers, they are not subject to the same military discipline as those in the regular Thai army. Hence, there is nothing that can be done to force them to remain with their units either in training or after they are sent to Laos. Many of them do leave, a total of [deleted] since the program began or about 30%. (Thailand, Laos and Cambodia, January 1972, A Staff Report Prepared for the Use of the Subcommittee on U.S. Security Agreements and Commitments Abroad of the Committee on Foreign Relations, United States Senate, pages 18-20.)

It is virtually impossible for the Congress to know how much of the taxpayers' money is being used to support these activities, as well as others where the U.S. may be footing the bill for military operations ostensibly initiated and controlled by another government. In this connection, it will be recalled that only long after the fact did the Congress discover that Philippine and Thai troops in Vietnam were being paid at considerably higher rates by the U.S. Government than were American soldiers for comparable combat service.

The carrying out of such clandestine activities by the Executive Branch—without the knowledge, let alone the approval of the Congress—makes a mockery of our system of separation of powers.

This amendment will serve to restore a more proper balance between the Legislative and Executive Branches in such matters.

Sec. 5. Authorization of Security Supporting Assistance

This section amends section 532 of the Act to authorize the appropriation of \$650,000,000 for security supporting assistance for fiscal year 1973, of which \$50,000,000 is earmarked for Israel.

The United States provides security supporting assistance to selected countries or international organizations to promote or maintain economic or political stability. In general, recipient countries face actual or threatened aggression which compels them to strengthen their capacity to meet the resultant challenge to their security. The use of Supporting Assistance funds in a given country depends on the degree of importance of that country to U.S. foreign policy objectives, particularly in terms of potential impact on U.S. national security interests.

Supporting Assistance funds normally contribute to some degree to the economic growth or to the developmental goals of the recipient country, but the current U.S. motive in programming these funds is neither economic growth nor development *per se*; rather, the specific

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FULBRIGHT AMENDMENT (Thais in Laos)

I. Prohibition

The Fulbright Amendment prohibits financing of military operations of Thais designed to support the government of Laos. (See Attachment for Law.)

II. Unaffected Military Activities

A. The Fulbright Amendment does not prohibit financing military activities:

(1) "required to insure the safe and orderly withdrawal or disengagement of U. S. Forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war," or *

(2) maintained to keep the sanctuaries clear or counteract actions which would prevent Vietnamization, or

(3) which existed in August 1970 when the amendment was approved on the Senate floor.

B. The Fulbright Amendment does not affect the financing of "local forces" in Laos.

III. Congressional Criticism

A. Senator Case

(1) 23 April 1971, Case wrote State concerning an agreement with Thailand to finance and support Thai troops fighting in Laos in violation of the Fulbright Amendment.

(2) 19 May 1971, Abshire replied: "We believe that it has been made clear that this is not a question of U.S. support for regular Thai forces in Laos. The irregular forces involved, while raised and trained in Thailand, are all one-year volunteers who go to Laos to serve under the command of the Royal Lao government. These guerrilla forces are therefore considered to be local forces in Laos."

(3) 20 May 1971, Case made reference to 4,000 to 6,000 Thai troops in Laos and the fact that the U. S. Government, through the CIA, is paying for them despite a Congressional ban.

*but see Senate floor debate on acceptance of provision

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B. Senator Fulbright

Fulbright wrote letter to State similar to Case's letter and received a similar reply.

C. Senator Kennedy

26 May 1971, in a letter to Kennedy, Abshire appeared to argue that operations in Northern Laos were necessary to U. S. troop withdrawal from South Vietnam.

D. Secret Session of Senate (held 7 June; made public 3 August 1971)

(1) Based upon classified report prepared in April of 1971 by Lowenstein and Moose, Symington charged that the Administration was violating the Fulbright Amendment. He charged the Laotian war was not directed through DOD where clearly understood Congressional controls apply, but rather through State and CIA, an agency which, through the National Security Council, reports to the President:

"It is a fact, however, that the United States is currently paying for foreign troops, for mercenaries if you will, despite legislation which, by letter as well as intent, was designed to prohibit any such practice. . . .

"The Thai forces in Laos are part of an irregular program. They are employed in conjunction with other, in effect, CIA-directed irregulars in Laos. They are recruited in Thailand. All costs are paid by the CIA, however, including both salaries and allowances.

These Thai forces are flown into Laos by Air America planes which in turn are hired by the U.S. Government.

If any of these Thai are wounded, at least some are thereupon evacuated by Air America to a U.S. Air Force field hospital at the Royal Thai Air Force Base at Udorn, in northern Thailand.

The facts with respect to U.S. support for Thai forces presently fighting in northern Laos were provided to the staff by U.S. Government officials. On their face they describe a situation which contravenes not only the intent, but also the actual letter, of the Fulbright amendments to last year's Defense authorization and appropriation bills. These amendments were specifically designed to prohibit the hiring of foreign troops, such as Thais, to defend the Governments of either Laos or Cambodia."

INTERNAL USE ONLY

INTERNAL USE ONLY

(2) In rebuttal to Abshire's 19 May letter to Case, Symington said: "Common sense forces one to ask, how can these Thai irregulars in Laos be described as local forces? They are Thai, not Lao. They are recruited in Thailand, not Laos."

IV. Support of Administration's Position

- A. Senator Griffin, in rebutting Symington's comments concerning Abshire's 19 May letter, argued: "But are we going to say that the Laos military command cannot recruit volunteers... should limit the recruiting of troops in its own country?"
- B. 7 June, State spokesman described the Thai troops as volunteers from border areas of Thailand who were in Laos at the request of Premier Phouma and that U. S. support was consistent with relevant legislation.
- C. 9 August, The Washington Post reported at least some CIA-supported Thai irregulars fighting in Laos were recruited directly from ranks of Thai armed forces and asked to accept special assignments in all-Thai battalions fighting in Laos. In response, State spokesman said Thai soldiers in Laos fighting there in violation of the Geneva Accords of 1962, but only because some 80,000 North Vietnamese were moving against the neutralist country. He did not confirm or deny Post story and no mention was made of violation of U. S. statutes.

V. Subsequent Legislation

- A. 21 October 1971, the Foreign Assistance Act of 1971 was reported out by the Senate Foreign Relations Committee with a provision requiring:

"...specific Congressional authorization before funds from any U. S. Government agency or official could be made available 'for the purpose of financing any military operations by foreign forces in Laos... outside the borders of the country of the government or person receiving such funds...' In addition, the amendment would require the President to make available to the Congress copies of any agreements and other information bearing on such military operations."

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This amendment was reported out in light of "continuing reports about U.S. financing of Thais and Cambodian mercenaries in Laos, and even Thai mercenaries in Cambodia...." This provision obviously was directly aimed at the use of Thais as volunteers in Laos. It was deleted from the legislation in conference and did not become law. At a minimum this gives rise to an inference that, facing the issue squarely, the Congress did not see fit to overrule the Administration's contention that Thai volunteers qualify as local forces under the free-world forces provision of the Defense Authorization and Appropriations Acts.

Excerpt from Department of Defense Appropriation Act '72
(Underscored portion is the Fulbright Amendment)

December 18, 1971 - 19 - Pub. Law 92-204

85 STAT. 734

Sec. 737. None of the funds appropriated in this Act may be used to make payments under contracts for any program, project, or activity in a foreign country unless the Secretary of Defense or his designee, after consultation with the Secretary of the Treasury or his designee, certifies to the Congress that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law is not feasible for the purpose, stating the reason therefor.

Contract pay-
ments in for-
eign countries.

Sec. 738. (a) Not to exceed \$2,500,000,000 of the appropriations available to the Department of Defense during the current fiscal year shall be available for their stated purposes to support: (1) Vietnamese and other free world forces in support of Vietnamese forces; (2) local forces in Laos and Thailand; and for related costs, on such terms and conditions as the Secretary of Defense may determine: *Provided*, That none of the funds appropriated by this Act may be used for the purpose of paying any overseas allowance, per diem allowance, or any other addition to the regular base pay of any person serving with the free world forces in South Vietnam if the amount of such payment would be greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the Armed Forces of the United States under section 310 of title 37, United States Code, serving in Vietnam or in any other hostile fire area, except for continuation of payments of such additions to regular base pay provided in agreements executed prior to July 1, 1970: *Provided further*, That nothing in clause (1) of the first sentence of this subsection shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos: *Provided further*, That nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of U.S. Forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war.

Forces in Viet-
nam, Laos, and
Thailand, sup-
port.

77 Stat. 216;
79 Stat. 547.

(b) Within thirty days after the end of each quarter, the Secretary of Defense shall render to Congress a report with respect to the estimated value by purpose, by country, of support furnished from such appropriations.

Report to
Congress.

Sec. 739. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget.

Working
capital funds.
76 Stat. 521.

Sec. 740. No part of the funds appropriated under this Act shall be used to pay salaries of any Federal employee who is convicted in any Federal, State, or local court of competent jurisdiction, of inciting, promoting, or carrying on a riot, or any group activity resulting in material damage to property or injury to persons, found to be in violation of Federal, State, or local laws designed to protect persons or property in the community concerned.

Payments to
convicted
rioters,
prohibition.

Sec. 741. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan or a grant to any applicant who has been convicted by any court of general jurisdiction of any crime which involves the use of or the assistance to others in the use of force, trespass, or the seizure of property under control of an institution of higher education to prevent officials or students at such an institution from engaging in their duties or pursuing their studies.

Loans to
campus disrupt-
ors, prohibi-
tion.

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Mr. President:

This amendment which I offer to S. 3390, the bill which continues the Foreign Assistance Act of 1961, is simple and consistent with the action taken by the Senate the other day (13 June) on amendment No. 1221.

In that case, it was recognized that once normal peacetime conditions prevail in Southeast Asia--which we all hope and pray will be soon--the military assistance program of the United States for Laos and South Vietnam would be returned to the jurisdiction of the Foreign Relations Committee for administration under the Foreign Assistance Act of 1961. But as long as the war is being fought in South Vietnam and Laos, the requirements for military assistance are so different from those which can be met under ordinary peacetime conditions that assistance to these countries should be continued under the defense procurement authorization bill and administered by the Department of Defense.

Section 4 of S. 3390 adds a new section to the Foreign Assistance Act of 1961. This new section would be part of permanent law and would control the use of assistance funds for military operations outside the borders of the country of the government or person receiving the funds. This would apply to military operations in Laos, North Vietnam, or Thailand.

My amendment, which is simple and short, would assure that these controls apply to military operations carried out with funds granted

and administered under the authority of the Foreign Assistance Act of 1961, which applies to peacetime situations. By substituting the language of my amendment "under the provision of this Act" for the present language "under any provision of law", which appears on line 19 of page 7, we accomplish this purpose but at the same time do not hamper situations in the war zone of Southeast Asia such as occasional incursions into Laos by South Vietnamese forces. Any such operations, I believe, should continue to be governed by the provisions of the defense procurement authorization bill which we agreed just the other day should continue to serve as the authority for military assistance for this area as long as wartime conditions prevail.

17 "SEC. 515. LIMITATIONS ON AVAILABILITY OF FUNDS
18 FOR MILITARY OPERATIONS.—(a) No funds authorized or
19 ~~appropriated under any provision of law~~ the provisions of this Act shall be made
20 available by any means by any officer, employee, or agency
21 of the United States Government for the purpose of financing
22 any military operations by foreign forces in Laos, North
23 Vietnam, or Thailand outside the borders of the country of the
24 government or person receiving such funds unless Congress
25 has specifically authorized or specifically authorizes the mak-
1 ing of funds available for such purpose and designates the
2 area where military operations financed by such funds may
3 be undertaken outside such borders.

4 "(b) Upon requesting Congress to make any such au-
5 thorization, the President shall provide to Congress a copy of
6 any agreement proposed to be entered into with any such gov-
7 ernment or person and the complete details of the proposed
8 military operation. Upon such authorization by Congress, the
9 President shall provide a copy of any such agreement and
10 thereafter of all plans and details of such operation."

JMM:

File

53390

For Assist. Auth '72

FYI - this is what we are doing on the

Foreign Assistance legislation.

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SENDER WILL CHECK CLASSIFICATION			
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OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	Mr. Meyer		
2			
3			
4			
5			
6			

ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks:

It is hoped that this will be of some help in coordinating our efforts to come up with unclassified statements for use on the Senate floor on the Foreign Assistance legislation.

A copy has been sent to [REDACTED]. We have some extra copies in the event you feel we should call on others, such as CA Staff who probably could come up with a good contribution on the more general topics such as number 5.

STATINTL

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.

DATE

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